

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF JAMES AND ) APPEAL NO. 07-A-2645  
GAIL TUCKER TRUST from the decision of the Board ) FINAL DECISION  
of Equalization of Valley County for tax year 2007. ) AND ORDER

**TRIPLEX PROPERTY APPEAL**

THIS MATTER was heard on the written record created by the parties. Board Members Lyle R. Cobbs and David E. Kinghorn participated in this decision. Appellant James and Gail Tucker submitted information for consideration. Respondent Valley County also submitted information for consideration. This appeal is taken from a decision of the Valley County Board of Equalization denying the protest of the valuation for taxing purposes of property described as Parcel No. RPC00300180070.

**The issue on appeal is the market value of a triplex property.**

**The decision of the Valley County Board of Equalization is reversed.**

FINDINGS OF FACT

The assessed land value is \$56,650, and the improvements' valuation is \$209,390, totaling \$266,040. Appellants request the total assessed value be reduced to \$174,600

The subject property is 0.149 acres improved with a 2,565 square foot triplex rental unit built in 1975. Two units in the triplex are 810 square feet and the remaining unit is 945 square feet.

Appellants asserted the assessed value for subject property for tax year 2007 was flawed. Appellants have owned subject for seventeen years and asserted the assessed value of subject rose because it was categorized as a single-family residence, and not as an income-producing property.

Subject's rental rates are currently \$500-\$580 per month, with no foreseen changes for

at least the next two years, if not longer. Each unit consists of a small backyard, with no carport or garage available, and can accommodate no more than two adults with no more than two children. For the past two months one of subject's three rental units has been vacant, with no potential renters. The vacant unit has been advertised at a monthly rental rate of \$550. Due to the small town and rural location of subject, the property cannot sell for as much as it could in a more urban area.

Taxpayers submitted an exhibit detailing the expenses and income of subject at different assessed valuations. If subject were valued at \$174,600 it would accrue total expenses of \$19,678 and \$17,197 in income, leaving a net annual income of -\$2,481. If subject were valued at the current assessed value of \$266,040, subject's expenses would total \$25,849, with an income of \$17,197, leaving a total net income of -\$8,652. The difference in the amount of expenses is derived from the mortgage interest based on the assessed valuation with a 10% down payment and 7.5% commercial interest rate.

Appellants stated there were no comparable two or four unit properties in the area. Subject is the only triplex in Cascade. All the properties submitted by the Assessor as comparables were single-family residences not designed to generate income. The comparables included no duplexes, triplexes or fourplexes. The two (2) properties closest in size to subject both sold for \$215,000, which, Appellants contended, still did not justify the assessed value of subject. Additionally, the Assessor stated market rent, not contract rent, is used to set the value of commercial properties. Appellants asserted the contract rent was indeed the market rent because subject was the only triplex in town.

Appellants stated the Assessor was wrong in failing to classify subject as a commercial property simply because does not have four (4) or more rental units. The Taxpayers outlined the

distinctions between subject and a single-family residential property. First, there is a difference in privacy due to the fact all of the units in subject share at least one adjoining wall with a neighbor. Second, the lot is small with only a small backyard, and there is no carport or garage, or other amenities normally associated with a single-family residence. Subject was built in 1975 as a triplex unit and has been used as a commercial property continuously. Because of design limitations, the property could not be converted into a single-family residence without completely tearing down the structure.

Due to the above factors Appellants argued subject must be viewed as commercial property and valued from its ability to sell as such within a reasonable time frame. The only realistic potential buyer of subject would be someone who would use subject as a commercial property in order to generate income.

Appellants contended \$174,600 was a fair value for subject. This figure was reached by multiplying subject's estimated annual 2007 income by ten, which is an accepted formula to determine the value of a rental unit. The Taxpayers asserted if a buyer could be found to purchase subject at either \$174,600 or \$266,040 they would immediately sell the property. According to local experts with whom Taxpayers consulted, the actual value of subject would be closer to \$142,000 based on annual rental income and expenses.

The County stated subject could not be classified as a commercial property because only properties with four (4) rental units or more are considered commercial. Additionally, even if subject were valued as a commercial property the overall value would be based upon market, not contract rent.

Assessor submitted six (6) single-family residential sales to support the assessed value of subject. Two (2) of the properties were smaller than subject in square footage and four (4)

were larger. The properties ranged in size from 864 to 2,356 square feet and in sale price from \$131,390 to \$195,580. The assessed values were compared to the sale prices, which indicated an assessment level or ratio of 85%.

The value of subject is based upon a model that was developed from sales data received for similar properties located in comparable neighborhoods within the county. There has been a steady and strong trend of rising property values, with property valuations being applied to properties as fairly as possibly so that all taxpayers have roughly the same share of the tax burden being applied to them.

### CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

For the purposes of property tax assessment, Idaho adheres to a market value standard as defined in Idaho Code § 63-201(10):

“Market value” means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

The Idaho Supreme Court has recognized three (3) approaches for determining market value.

[T]here are three primary methods of determining market value: the cost approach, in which the value as determined by new cost or market comparison is estimated and reduced by accrued depreciation; the income approach, applicable to "income producing

property" in which a capitalization rate is determined from market conditions and applied to net income from the property to determine appraised value; and the market data (comparison method) approach, in which value of the assessed property is ascertained by looking to current open market sales of similar property. *Merris v. Ada County*, 100 Idaho 59, 63, 593 P.2d 394, 398 (1979).

Appellants argued subject should be valued according to the income approach as a commercial property. Multiplying the annual rental income by a factor of ten, Appellants estimated subject's value at \$174,600.

Respondent contended the income approach was not appropriate because only properties with four (4) or more rental units are considered commercial. Also noted was if the income approach was used, the income would be based on market rent, not the rental rate charged by Appellants.

Respondent used the sales comparison approach to value subject and presented six (6) single-family residential sales from 2006 to that end. The properties were between 864 and 2,356 square feet and sold between \$155,000 and \$245,000. Subject is 2,565 total square feet and assessed at \$266,040. It does not appear either the cost or income (Gross Rent Multiplier) approaches were considered.

Appellants argued comparing subject to single-family residences was improper because a triplex unit shares at least one wall with the adjoining unit, thus diminishing the privacy one would enjoy in a single-family residence. Also noted was subject did not have a carport or garage, and the backyard area was quite small.

Although different types of property are by their nature more amenable to valuation by one method of appraisal than another the touchstone in the appraisal of property for *ad valorem* tax purposes is the fair market value of that property, and fair market value must result from application of the chosen appraisal method. An arbitrary valuation is one that does not reflect the fair market value or full cash

value of the property and cannot stand, notwithstanding the fact that it may be the result of application of one of the approved methods of appraisal set out in the State Tax Commission Regulations. There is no one factor which can be said to be the key to the proper appraisal of taxable property. *Merris v. Ada County*, 100 Idaho 59, 63, 593 P.2d 394, 398 (1979).

Using the sales comparison approach to value an income-producing property such as subject is not necessarily improper. Granted, properties with one to four rental units are considered residential properties. Questionable in this case, however, is Respondent's use of single-family residential sales to value a triplex property. Under the sales comparison approach, value is determined by looking at sales of similar property. There is nothing similar between a triplex and a single-family residence. Appellants noted a few of the differences, but there are many more that we will not list here. Furthermore, subject was assessed noticeably higher than any of the sale properties. Neither the type of property used, nor the sale prices of those properties, support subject's assessment.

Under the circumstances, we find Appellants' valuation method more reasonable and better supported. As such, the decision of the Valley County Board of Equalization is reversed.

#### FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Valley County Board of Equalization concerning the subject parcel be, and the same hereby is, reversed, lowering the assessed value to \$174,600.

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

MAILED April 30, 2008